S.B. Criminal Misc. Third Bail Application No. 2216/2006
(Amarjeet Singh @ Kaka Vs. State of Rajasthan)

Date of Order: May 29, 2006

HON'BLE MR. H.R. PANWAR, J.

Dr. S.S. Jodha, for the petitioner.
Mr. JPS Chaudhary, Public Prosecutor for the State.

This is third bail application.

Heard learned counsel for the petitioner and the Public Prosecutor appearing for the State.

It is contended by the learned counsel for the petitioner that in the trial of the instant case, as many as twelve prosecution witnesses have been examined. At that stage, the trial Court, by the order dated 12-4-2006, consolidated an another matter with the instant case in which a subsequent Challan was filed against co-accused Preetpal Singh alias Gagan. A request was made by the counsel for the accused-petitioner before the trial Court to take the case day to day since the petitioner is in custody from 24-6-2005. The request to take up the matter day to day was rejected by the trial Court on the ground that the other case, in which Challan has been filed against co-accused Preetpal Singh alias Gagan Prithpal, has been consolidated and co-accused Preetpal Singh alias Gagan is absconding, therefore, further proceeding in the matters will be taken up, including recording of the evidence, after arrest of

absconding co-accused Preetpal Singh alias Gagan. Learned counsel for the petitioner submits that it is uncertain to say when co-accused Preetpal Singh alias Gagan will be arrested and the trial will be commenced. According to the learned counsel, even if co-accused Preetpal Singh alias Gagan is subsequently arrested then also the trial has to start afresh because the prosecution witnesses will have to be fresh examined so that absconding co-accused Preetpal alias Gagan may cross-examine those witnesses. Therefore, learned counsel for the petitioner submits that the trial is likely to take indefinite period and the petitioner is behind the bars for nearly one year. It is further submitted that the similarly situated co-accused Ravindra Singh @ Bobby and other accused have been released on bail and the case of the petitioner is not distinguishable from the accused released on bail.

Having regard to the facts and circumstances of the case and the fact that the trial in the case is not proceeding on account of absconding of co-accused Preetpal Singh alias Gagan and it is uncertain when he will be arrested and produced before the trial Court and when trial would start, I consider it just and proper to enlarge the accused-petitioner on bail.

Accordingly, this bail application filed under Section 439 Cr.P.C. is allowed and it is directed that petitioner Amarjeet Singh @ Kaka S/o Javahar Singh be released on bail in FIR No.

124/2005, Police Station, Surajpole, Udaipur, provided he executes a personal bond for a sum of Rs.20,000/- with two sound and solvent sureties in the sum of Rs.10,000/- each to the satisfaction of the learned trial court for his appearance before that court on each and every date of hearing and whenever called upon to do so till the completion of the trial.

(H.R. PANWAR), J.

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